IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

STEPHEN M. CRAMPTON and SHELLEY P. CRAMPTON, Individually and as natural parents and next friends of STEPHEN JOSEPH CRAMPTON, a minor **PLAINTIFFS**

VERSUS **CIVIL ACTION NO. 1:98CV295-P-D**

HONORABLE TIMOTHY E. ERVIN, In his official capacity as Chancellor for the Lee County Chancery Court, RICHARD MAYNARD, CHRIS MAYNARD, Individually and as natural parents and next friends of MATT MAYNARD, a minor **DEFENDANTS**

MEMORANDUM OPINION

This cause comes before the Court on cross-motions for summary judgment [15-1], [18-1] and [19-1]. The Court has duly considered the parties' memoranda and exhibits and is ready to rule.

FACTUAL BACKGROUND

This case involves a dispute over the constitutionality of Mississippi's guardianship statute, codified at Mississippi Code Annotated § 93-13-59 and § 93-13-211. These statutes, as interpreted by the Mississippi Supreme Court, require the appointment of a legal guardian to protect the assets of a minors estates in all instances in which the proceeds from settlement of a minor's claim exceed the sum of $10,000.

Plaintiffs Stephen and Shelley Crampton, a married couple, are the natural parents of Joseph Crampton, a minor. Joseph was severely injured in an incident on September 19, 1997 when Matt Maynard, also a minor, closed the trunk lid of a vehicle owned by Richard Maynard on his head while Joseph was attempting to retrieve his notebook from the trunk of the car.

The Maynard's insurance carrier, St. Paul Fire and Marine Insurance Company, negotiated a settlement in which St. Paul agreed to pay $50,000 in settlement of Joseph's personal injury claim. The Maynards and St. Paul conditioned the settlement on obtaining

chancery court approval.

A hearing on the settlement was scheduled to take place on June 26, 1998 before Chancellor Ervin of the Lee County Chancery Court. In preparation for same, the Maynards' attorney M. Alison Farese prepared a petition for appointment of Shelley Crampton as Joseph's statutory guardian in accordance with the provisions of § 93-13-13.

Upon review of the guardianship petition and the statutes cited therein, Mr. and Mrs. Crampton objected to the petition. They averred that the creation of a statutory guardianship would operate as an infringement of their fundamental rights as natural parents to oversee Joseph's upbringing. The Cramptons likewise objected on the ground that the guardianship requirement violated their First Amendment right to religious freedom, inasmuch as the guardianship would allegedly necessitate the Court's intrusion into private family matters and thereby violate the Cramptons' heart-felt conviction that rearing and educating their children was a God-ordained duty. In response, Ms. Farese contacted Chancellor Ervin and voiced inquiry concerning the guardianship requirement in light of the parent's objections. Ervin affirmed Farese's understanding of the mandatory nature of the guardianship statute.

In short, the parties reached an impasse; the hearing did not go forward as scheduled. The Cramptons instead brought suit under 42 U.S.C. § 1983 against Richard and Chris Maynard and Chancellor Ervin[1] in federal court on September 2, 1998 seeking a declaratory judgment that the guardianship provisions of § 93-13-1 do not apply to the Crampton's situation and enjoining the defendants from applying said statutes against them and/or conditioning settlement upon appointment of a statutory guardian. The Complaint averred that the defendants had impermissibly violated the Cramptons'substantive rights under the Constitution as well as their rights to procedural due process under the Fourteenth Amendment. The Complaint also asserted a claim that the guardianship statutes are facially invalid as construed by interpretative decisions of the Mississippi Supreme Court.

---

[1] Since the filing of the Complaint, Judge Ervin retired. He has been replaced in office by Honorable Jacqueline Mask. Judge Mask is therefore substituted as a defendant pursuant to F.R.C.P. 25.

The defendants filed answers denying the plaintiffs' asserted right to relief. The essential facts having been established and the parties having agreed that the matter to be determined is merely one of law, this case is now before the Court on dispositive motions filed by each of the parties. The motions have been fully briefed and the Court is ready to rule.

STANDARD OF REVIEW

The Federal Rules of Civil Procedure, Rule 56(c), authorizes summary judgment where "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine dispute as to any material fact and that the moving party is entitled to judgment as a matter of law. Celotex Corporation v. Catrett, 477 U.S. 317, 322, 91 L.Ed.2d 265, 106 S. Ct. 2548 (1986). The existence of a material question of fact is itself a question of law that the district court is bound to consider before granting summary judgment. John v. State of La. (Bd. Of T. for State C. & U., 757 F.2d 698, 712 (5th Cir. 1985).

A judge's function at the summary judgment stage is not himself to weigh the evidence and determine the truth of the matter, but to determine whether there is a genuine issue for trial. There is no issue for trial unless there is sufficient evidence favoring the non-moving party for a jury to return a verdict for that party. If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 91 L.Ed.2d 202, 106 S. Ct. 2505 (1986).

Although Rule 56 is peculiarly adapted to the disposition of legal questions, it is not limited to that role. Professional Managers, Inc. v. Fawer, Brian, Hardy & Zatzkis, 799 F.2d 218, 222 (5th Cir. 1986). "The mere existence of a disputed factual issue, therefore, does not foreclose summary judgment. The dispute must be genuine, and the facts must be material." Id. "With regard to 'materiality', only those disputes over facts that might affect the outcome of the lawsuit under the governing substantive law will preclude summary judgment. Phillips Oil Company, v. OKC Corporation, 812 F.2d 265, 272 (5th Cir. 1987). Where "the summary judgment evidence establishes that one of the essential elements of the plaintiff's cause of action does not exist as a matter of law, . . . all other contested issues of fact are rendered immaterial. See Celotex, 477

U.S. at 323, 106 S. Ct. at 2552. Topalian v. Ehrman, 954 F.2d 1125, 1138 (5th Cir. 1992).

In making its determinations of fact on a motion for summary judgment, the Court must view the evidence submitted by the parties in a light most favorable to the non-moving party. McPherson v. Rankin, 736 F.2d 175, 178 (5th Cir. 1984).

The moving party has the duty to demonstrate the lack of a genuine issue of material fact and the appropriateness of judgment as a matter of law to prevail on his motion. Union Planters Nat. Leasing v. Woods, 687 F.2d 117 (5th Cir. 1982). The movant accomplishes this by informing the court of the basis of its motion, and by identifying portions of the record which highlight the absence of genuine factual issues. Topalian, 954 F.2d at 1131.

"Rule 56 contemplates a shifting burden: the nonmovant is under no obligation to respond unless the movant discharges [its] initial burden of demonstrating [entitlement to summary judgment]." John, 757 F.2d at 708. "Summary judgment cannot be supported solely on the ground that [plaintiff] failed to respond to defendants' motion for summary judgment, " even in light of a Local Rule of the court mandating such for failure to respond to an opposed motion. Id. at 709.

However, once a properly supported motion for summary judgment is presented, the nonmoving party must rebut with "significant probative" evidence. Ferguson v. National Broadcasting Co., Inc., 584 F.2d 111, 114 (5th Cir. 1978). In other words, "the nonmoving litigant is required to bring forward 'significant probative evidence' demonstrating the existence of a triable issue of fact." In Re Municipal Bond Reporting Antitrust Lit., 672 F.2d 436, 440 (5th Cir. 1982). To defend against a proper summary judgment motion, one may not rely on mere denial of material facts nor on unsworn allegations in the pleadings or arguments and assertions in briefs or legal memoranda. The nonmoving party's response, by affidavit or otherwise, must set forth specific facts showing that there is a genuine issue for trial. Rule 56(e), Fed. R. Civ. P. See also Union Planters Nat. Leasing v. Woods, 687 F.2d at 119.

While generally "[t]he burden to discover a genuine issue of fact is not on [the] court, (Topalian, 954 F.2d at 1137), "Rule 56 does not distinguish between documents merely filed and those singled out by counsel for special attention–the court must consider both before granting a summary judgment." John, 757 F.2d at 712, quoting Keiser v. Coliseum Properties, Inc., 614 F.2d 406, 410 (5th Cir. 1980).

LEGAL ANALYSIS

A. Standing to Sue - Requirement of a Case or Controversy

The power of the federal judiciary extends only to actual cases or controversies. Hence, it is first necessary that the Court consider whether the plaintiffs have demonstrated the existence of a justiciable controversy prior to moving to the merits of the action. In order to bring a constitutional claim, a plaintiff must first demonstrate the essential elements of standing. Standing to sue requires the following:

(1) "injury in fact - an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical";

(2) causation, meaning that the injury is "fairly traceable to the challenged action of the defendant"; and

(3) redressability, meaning that "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision."

Valley v. Rapides Parish School Board, 145 F.3d 329 (5th Cir. 1998)(quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992)). The plaintiffs vehemently assert that they have demonstrated the requisite elements to bring this constitutional claim. Defendants just as heatedly urge that plaintiffs lack standing.

After careful consideration, the Court concludes that the plaintiffs have not made the necessary showing of standing necessary to challenge the statute, either facially or as "applied" to them. Because negotiations broke down and the settlement hearing did not go forward, no chancellor ever applied the guardianship statute in derogation of any of the plaintiffs' asserted rights. Chancellor Ervin's ad hoc pronouncement in response to an informal inquiry by the

Maynards' counsel is simply an inadequate substitute for the actual or impending injury required by generations of jurisprudence concerning standing. Nor can the Maynards' refusal to accede to a settlement under terms which might very likely place them in jeopardy of being subject to additional liability in the future be translated into an invasion of the Cramptons' "legally protected interest." Individual citizens have every right to order their lives and activities in accordance with the statutory law of the states in which they reside. Were the Court to recognize the Maynards' insistence on chancery approval as an "application" of the guardianship statute against the Cramptons, the floodgates of litigation would be opened to an endless series of litigation by parties asserting that the provisions of various statutes were wielded against them by private citizens during the course of contract negotiations and other business dealings. The Court refuses to employ such a hollow interpretation of the standing requirements.

The defendants' motions are well-taken and should be granted. A separate judgment will be entered herein in accordance with the provisions of F.R.C.P. 58.

This, the _____ day of March, 2000.

_____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE